

JAN 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JORGE GUZMAN AVILA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-73518

Agency No. A098-456-026

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 20, 2009^{**}

Before: O'SCANNLAIN, SILVERMAN and BYBEE, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' order dismissing an appeal from an immigration judge's removal order. We have

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 8 U.S.C. § 1252. We review de novo questions of law and due process challenges. *See Kohli v. Gonzales*, 473 F.3d 1061, 1065 (9th Cir. 2007).

Petitioner's motion to file the opposition to the motion for summary disposition and reply to the opposition to the motion for a stay of removal out of time is granted. The Clerk shall file the opposition and reply.

Respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Petitioner contends that his notice to appear ("NTA") was defective because the issuing officer was not properly identified. This argument is foreclosed by *Kohli v. Gonzales*, 473 F.3d at 1065-68 (rejecting similar argument on the ground that no "statute or regulation requires the inclusion of the name and title of the issuing officer on the NTA," and noting that the presumption of regularity was proper in this context). Petitioner's due process claim fails because it is predicated on these foreclosed contentions. Accordingly, this petition for review is denied.

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c)

and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.